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25,067 USA

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7590

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EXAMINER

VIG, NARESH

ART UNIT

PAPER NUMBER

3629

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Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

This is in response to the correspondence received on 17 March 2006. There are 43 claims 1 – 7, 10 – 18 and 21 – 47 are pending for examination.

### ***Response to Arguments***

In response to applicant's argument that "technological arts" rejection is no longer appropriate for 35 USC 101 pursuant to case law affirmed by USPTO has been considered and the rejection of claims 38-47 under 35 USC 101 has been removed.

In response to applicant's argument that cited references does not teach the limitation available to sellers that denies access of goods by the buyers.

However, upon reviewing the cited prior art, Liquidation, page 10 teaches sellers are allowed to set restrictions for sales. Liquidation, page 30, teaches sellers can restrict sales of goods to buyers or areas. Since prior art liquidation teaches the limitation, cited prior art Giovannoli has been removed.

In response to applicant's argument that cited prior art Giovannoli does not teach Filtering by buyers.

Applicant is arguing a limitation not claimed by the applicant. Also, cited reference Liquidation teaches filtering by buyers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 7, 10 – 18 and 21 – 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liquidation.com, inc., hereinafter known as Liquidation in view of Food Market Exchange hereinafter known as FME.

Regarding claims 1 – 3 and 10 – 11, Liquidation discloses that its “open technology platform integrates multiple vertical exchanges and brick-and-mortar enterprises into a single global surplus network of buyers and sellers, lowering transaction costs and achieving superior liquidity.” Liquidation’s online surplus exchange links qualified convenience of our web site. Liquidation’s method and system allows registered buyers and sellers to participate in the liquidation auctions; collects information from seller relating to the goods; classifies goods; protects seller’s sales channels by listing auctions anonymously and also by restricting auctions to specific buyers or areas; conducts background checks on all users to verify their business and their ability to conduct surplus transactions; provides search engine to buyers to find specific auctions. In addition, Liquidation provides buyers the ability to monitor open bids. In addition, Liquidation discloses that sellers have access to thousands of

registered, authorized buyers, and, sellers can set restrictions for sale [Liquidation, pages 16, 31].

Liquidation does not disclose category selection for buyers. FME teaches system and method for online end-to-end vertical marketplace for the food industry (type of industry) where buyers and sellers of processed food and beverages, ingredients and raw materials (type of retailers) can meet and conduct business over the internet. Also, FME teaches classify food products into plurality of categories.

Liquidation teaches that sellers can restrict buyers [Liquidation, protect your sales channel, page 30].

Regarding claims 4 and 12, Liquidation in view of FME teaches system and method which allows sellers to list their auction on Liquidation marketplace. Sellers are required to enter their username and password (this service is only available to registered users), and, fill out the forms for the posting. Liquidation allows bidders to ask you questions about the auction. When an interested bidder poses a question regarding seller's auction listing, seller will automatically receive an e-mail message, along with a link to the answer form. Seller's answers to these questions are posted along with the auction.

Regarding claims 5 – 6 and 15 – 18, Liquidation in view of FME teaches system and method which conducts background checks on all users to verify users' business and their ability to conduct surplus transactions. Liquidation does not disclose how it

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conducts background checks on its users. Official notice is taken that it is known to one of ordinary skill in the art that businesses perform background checks manually (commercial loans, rental agreement) and/or automatically (car loan application, store credit card issuance) on the entities they want to conduct business with, to ensure their stability and financial condition. For example, businesses may use publicly available information (SEC filings, quarterly earnings report, news papers, magazines, county records etc.), buy reports from providers of business information like Dunn & Bradstreet, or, use privately held information (history data acquired while working with the entity).

Therefore it is inherent that Liquidation has system and method it uses to verify buyer information using publicly available data, and/or, using privately held data to verify their ability to conduct surplus transactions.

Regarding claims 7, Liquidation in view of FME teaches that "Liquidation has solved the problem of alerting your normal sales channels when you are selling surplus goods at a discount. Auctions are listed anonymously and can be restricted to specific buyers or areas to ensure your protection" (identification information is not disclosed).

Regarding claim 13 – 14, Liquidation in view of FME teaches an online surplus market solution provider. Liquidation discloses that customers can access their system over the internet (public), and, it would have been obvious to one of ordinary skill in the art at the time the invention was made that user can connect to internet via public communication network (e.g. PSTN) or via private communication network (e.g. VLAN).

Regarding claim 21 – 26, Liquidation in view of FME teaches to provide full-service business-to-business for the exchange of surplus goods [Liquidation, page 9]. Liquidation discloses its users selling plurality of types of merchandise like Electronics, General Retail Merchandise, Sporting Goods, Health & Beauty, Household Goods etc. [Liquidation, page 10]. It would have been obvious at the time of invention to a person with ordinary skill in the art that a business can be a retailer, wholesaler, manufacturer, market-maker, supplier, value added reseller etc. In addition, FME also teaches traders, producers, agents and service providers to be users of its open market [FME, page 7].

Regarding claims 27 and 37 – 40 and 44, Liquidation discloses to allow sellers to set restrictions for sales [Liquidation, page 30]. In order to place a bid, Liquidation requires the users to be registered to place the bid. Users can register with Liquidation by completing a form. The form has instructions to help users through the process. Liquidation states that “Upon completing this form, you will be sent an email from us notifying you that we have received the information and generally, within 24 hours, we will confirm your information and your Liquidation.com account will be active”. Liquidation allows buyers to conduct a search for the item they are looking for, or, browse auctions by category. After selecting the item, buyers can place bid and monitor the auction [pages 11 – 16]. Liquidation discloses that when a seller’s auctions are placed anonymously and can be restricted to specific buyers or areas to ensure seller’s protection [page 30].

Liquidation does not disclose category selection for buyers. FME teaches system and method for online end-to-end vertical marketplace for the food industry (type of industry) where buyers and sellers of processed food and beverages, ingredients and raw materials (type of retailers) can meet and conduct business over the internet. Also, FME teaches classify food products into plurality of categories.

Therefore, it is known at the time of invention to restrict the use of the system to selected users to prevent unauthorized use of the information, keep the information available to limited audience etc.

Liquidation does not disclose what results it to the buyer in response to their query. However, Liquidation disclose to protect seller's Sales Channels. Sellers can place auctions anonymously and keep the auction to restricted to specific buyers [page 30].

Therefore, it would have been obvious at the time of invention to a person with ordinary skill in the art that Liquidation system and method protects sellers by disclosing limited results to buyers query to protect seller's Sales Channel.

Liquidation does not disclose database. However, Liquidation allows buyers to conduct a search for the item they are looking for, or, browse auctions by category. After selecting the item, buyers can place bid and monitor the auction [pages 11 – 16].

Therefore, it would have been obvious at the time of invention to a person with ordinary skill in the art that Liquidation has means and method to storing and updating data for documentation, tracking the bidding history, retrieval of data in case there was a system failure etc.



Liquidation teaches that sellers can restrict buyers [Liquidation, protect your sales channel, page 30].

Regarding claim 28 – 30, 41 – 43 and 45 – 47, Liquidation in view of FME teaches to provide full-service business-to-business for the exchange of surplus goods [Liquidation, page 9]. Liquidation discloses its users selling plurality of types of merchandise like Electronics, General Retail Merchandise, Sporting Goods, Health & Beauty, Household Goods etc. [Liquidation, page 10]. It would have been obvious at the time of invention to a person with ordinary skill in the art that a business can be a retailer, wholesaler, manufacturer, market-maker, supplier, value added reseller etc. In addition, FME also discloses traders, producers, agents and service providers to be users of its open market [FME, page 7].

Regarding claim 31, Liquidation in view of FME teaches sellers can place auctions anonymously and keep the auction to restricted to specific buyers [Liquidation, page 30].

Regarding claim 32, Liquidation does not disclose how it qualifies buyers who match seller's search criteria. However, Liquidation in view of FME teaches system and method to protect seller's Sales Channels. Sellers can place auctions anonymously and keep the auction to restricted to specific buyers [Liquidation, page 30].

Therefore, it would have been obvious at the time of invention to a person with ordinary skill in the art that Liquidation in view of FME teaches system and method to disclose auction information to buyers who meet seller's search criteria to protect seller's identity and Sales Channel.

Regarding claim 33, Liquidation states that "Auctions are listed anonymously and can be restricted to specific buyers or areas to ensure your protection" [Liquidation, page 30].

Regarding claim 34, Liquidation discloses to market sellers goods to thousands of their authorized buyers worldwide. Liquidation does not disclose how it qualifies buyers who match seller's search criteria. However, Liquidation in view of FME teaches system and method to protect seller's Sales Channels. Sellers can place auctions anonymously and keep the auction to restricted to specific buyers [Liquidation, page 30].

Therefore, it would have been obvious at the time of invention to a person with ordinary skill in the art that Liquidation in view of FME teaches system and method to disclose auction information to buyers who meet seller's search criteria to protect seller's identity, Sales Channel, meet export/import restrictions etc.

Regarding claim 35, Liquidation states that "Auctions are listed anonymously and can be restricted to specific buyers or areas to ensure your protection" [Liquidation, page 30].

Regarding claim 36, Liquidation discloses to market sellers goods to thousands of their authorized buyers worldwide. Liquidation does not disclose how it qualifies buyers who match seller's search criteria. However, Liquidation disclose to protect seller's Sales Channels. Sellers can place auctions anonymously and keep the auction to restricted to specific buyers [Liquidation, page 30].

Therefore, it would have been obvious at the time of invention to a person with ordinary skill in the art that Liquidation system and method to disclose auction information to buyers who meet seller's search criteria to protects seller's identity, Sales Channel, meet export/import restrictions etc.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Naresh Vig". The signature is stylized with a large, looped initial "N" and a cursive "Vig".

Naresh Vig  
Examiner  
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May 29, 2006